IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3912 OF 2006

Sultan Kamruddin Dharani ..Petitioner.

V/s.

Union of India & Ors. ..Respondents.

Mr.S.N.Kantala i/b. M/s.Khaitan & Co. for petitioner.

Mr.P.S. Jetly with N.R. Prajapati for respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 7TH JULY, 2006.

P.C.:

1. The petitioner seeks release of the goods namely zinc ingots, zinc dross, brass scrap, copper cathodes and copper scrap detained / seized since 29/3/2006 and also seeks an order for filing of the bill of entry for home consumption and clearance of imported Titanium Dioxide on payment of customs duty.

2. It is the case of the petitioner that the respondents have wrongfully detained / seized goods lying in the godowns of the petitioner at Bhiwandi and in spite of full co-operation extended by the petitioner with submission of all the relevant documents, the customs authorities have neither issued

show cause notice nor did they release goods. According to the petitioner, the goods were seized which were duly cleared by the customs in accordance with law. As regards Titanium Dioxide which is lying uncleared, it is submitted that the petitioner must be permitted to file the bill of entry and thereafter allowed clearance of the goods on payment of customs duty, in accordance with law. It is submitted that on account of inordinate delay on the part of the customs authorities in releasing the detained / seized goods, grave prejudice is caused to the petitioner and, therefore, the customs authorities must be directed to release the seized goods forthwith and also allow clearance of Titanium Dioxide, which is lying uncleared.

3. On behalf of the revenue, an affidavit in reply is filed by Mr.P.V.George, Deputy Director of Revenue Intelligence opposing the claim of the petitioner. It is the case of the revenue that the investigation conducted so far have revealed that the petitioner through his brother in Singapore has acted as a supplier of the goods on one hand and through his own set up in Mumbai has acted as an indenter for disposal of the goods which were cleared without payment of duty in the name of Delhi based parties which are not in existence. It is contended that the

petitioner has claimed that the stock of copper scrap lying in the godown belongs to M/s. Metal Link and Alloys Ltd., Daman. However, on investigation, it is revealed that M/s. Metal Link and Alloys Ltd. have already received the goods in their factory and the same have been consumed in their factory. Thus, the particulars furnished have been found to be false. Similarly, the petitioner has claimed that the consignment of Titanium Dioxide lying uncleared in JNPT, Nhava Sheva belongs to Tripti Overseas at Delhi. According to the revenue, the firm Tripti Overseas is not in existence at its given address. It is the case of the revenue that the petitioner has been deliberately giving misleading information and has not been co-operating with the department in completing the investigation.

4. In these circumstances, we do not think it to be a fit case for entertaining the Writ Petition under Article 226 of the Constitution of India.

5. Accordingly, petition is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)